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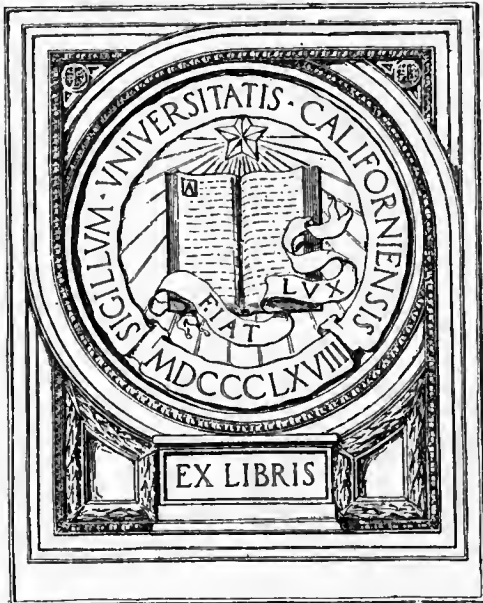
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# SOUTHERN RHODESIA.

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## CORRESPONDENCE

RELATING TO THE

# CONSTITUTION OF SOUTHERN RHODESIA.

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Presented to Parliament by Command of His Majesty.

*April, 1914.*

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LONDON:

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By DARLING AND SON, LIMITED, BACON STREET, E.

To be purchased, either directly or through any Bookseller, from  
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1914.

[Cd. 7264.] Price 2½d.

## TABLE OF CONTENTS.

Serial No.	From or to whom.	Date.	Subject.	Page.
<b>1910.</b>				
1	The British South Africa Company.	October 20	Encloses copies of communications between the Administrator and the Elected Members of the Legislative Council, from which it will be seen that the Elected Members refused to concur in the proposals of the Company with regard to the new Order in Council and that the only alternative they offered was, in effect, that changes should be limited to provisions required to give them a majority vote in the Council.	1
2	To the British South Africa Company.	December 20	States that the High Commissioner has suggested the issue of a proclamation so amending the 1903 Order in Council as to legalize the majority at present accorded to the Elected Members as an act of grace.	1
<b>1911.</b>				
3	The British South Africa Company.	January 6	Encloses a further draft of the proposed new Order in Council ; observes that the Company cannot agree to the proposal of the High Commissioner as the powers of the Company to fulfil its administrative obligations would be imperilled ; remarks upon the proposals of the new draft and claims that they carry out the pledges given by the Visiting Directors in the Declaration of Policy on 21st October, 1907.	2
4	To the British South Africa Company.	February 9	Expresses the opinion that Clause 9 of the new Order in Council is not a fulfilment of the promise made by the Visiting Directors, and states that Mr. Harcourt cannot submit the draft to His Majesty in Council until the Elected Members have had an opportunity to express their opinion in regard to Clause 9.	5
5	The British South Africa Company.	February 22	States objections to the procedure suggested in No. 4 and renews request for approval of their proposals.	6
6	To the British South Africa Company.	March 8	Regrets that the Secretary of State is unable to submit the draft Order in Council to the King in Council ; agrees that action may be suspended pending the meeting of the new Legislative Council in May on the understanding that the position of the Company should then be fully explained in the Council and an endeavour made to obtain the concurrence of the Elected Members in the Order in Council as a whole.	8
7	The British South Africa Company.	April 4	Expresses opinion that no practical result would be secured by a further endeavour to obtain the concurrence of the Elected Members in the Order in Council as a whole ; submits revised drafts of an Order in Council which, in the opinion of the Company, does not provide for the discharge in all circumstances of the obligations of the Company.	9

Serial No.	From or to whom.	Date.	Subject.	Page.
		<b>1911.</b>		
8	To the British South Africa Company.	April 15	Informs them that draft B. enclosed in No. 7 will be submitted to His Majesty in Council for enactment at the first opportunity; observes that the responsibility of submitting an Ordinance which could be regarded by the Elected Members as fulfilling the pledge of the Visiting Directors must rest with the Company and not with the Secretary of State.	10
		<b>1914.</b>		
9	The British South Africa Company.	March 17	Calls attention to certain inaccuracies in a statement made by Mr. Harcourt in the House of Commons.	10
10	To British South Africa Company.	March 21	Replies to No. 9 and states that Mr. Harcourt is quite ready to publish the correspondence with his explanation.	11
11	The British South Africa Company.	March 26	Points out that in taking steps to ensure that the administration should not be outvoted in the Legislative Council by the Elected Members the Company was following a policy favoured by the Colonial Office; asks that the whole correspondence may be published.	11
12	To the British South Africa Company.	April 1	Observes that the correspondence will be laid before Parliament at an early date and that Mr. Harcourt will be glad to include in it any explanation which Sir S. Jameson may desire to give of his action in making public an isolated paragraph of an unpublished letter without having sought Mr. Harcourt's concurrence.	12
13	The British South Africa Company.	April 2	Observes that there was nothing misleading in Sir Starr Jameson's quotation and that it does not seem to him that any explanation is called for.	12

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SOUTHERN RHODESIA.

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CORRESPONDENCE

RELATING TO THE

CONSTITUTION OF SOUTHERN RHODESIA.

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No. 1.

THE BRITISH SOUTH AFRICA COMPANY to COLONIAL OFFICE.

(Received 24 October, 1910.)

2, London Wall Buildings, London, E.C.,

SIR,

20th October, 1910.

I AM directed to refer to my letter of 22nd October, 1909,\* and to previous correspondence regarding the proposed new Order in Council for Southern Rhodesia, and to transmit, for the information of the Secretary of State, copies of the confidential communications\* that have passed between Sir William Milton and the Elected Members of the Legislative Council.

2. It will be seen from the above correspondence that the Elected Members were unanimous in refusing to concur with the proposals of the Company, and it will also be noted that the only alternative which they had to offer in response to the request of Sir William Milton, was, in effect, that the changes to be made in the Southern Rhodesia Order in Council should be limited to the provisions required to give to them a majority vote in the Council.

3. I am to add that the Board is now reconsidering the whole question, and expects to be in a position to address a further communication to you at an early date.

I am, &c.,

A. P. MILLAR,

Assistant Secretary.

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No. 2.

COLONIAL OFFICE to THE BRITISH SOUTH AFRICA COMPANY.

SIR,

Downing Street, 20th December, 1910.

I AM directed by Mr. Secretary Harcourt to refer to Mr. Millar's letter of the 20th of October, † forwarding copies of correspondence between the Administrator of Southern Rhodesia and the Elected Members of Council relative to the proposed new Order in Council, and stating that your Board expected to be in a position to address the Secretary of State further at an early date.

I am to state that Mr. Harcourt considers that further delay in attempting a settlement of this question would be a matter for regret, and that he will be glad to have the observations of your Directors on it at their very early convenience. In a despatch received in this Office on the 10th of December,\* the High Commissioner for South Africa has suggested that, failing an early agreement as to the wording of the financial clause of the draft Order in Council (8) which is in dispute, it might be worth while to consider the issue of a High Commissioner's Proclamation amending the paragraph of Article 2 of the 1903 Order in Council ‡ marked "17 (A) (1)"

\* Not printed.

† No. 1.

‡ See Appendix.

by the substitution of the word "twelve" for the word "fourteen" and of the word "five" for the word "seven" where that word first occurs. In this way it would be possible to legalise, if only as a temporary measure, the majority at present accorded to the Elected Members as an act of grace on the part of the Company. The Elected Members would, in the view of the High Commissioner, probably prefer this course to a continuance of the present indefinite and unsatisfactory situation, while from the point of view of the Company the issue of a proclamation would be less open to objection, especially if the proclamation were given effect to for a stated period only, than an Order in Council which might be thought not to preserve to them the protection desired in financial matters and which, when once issued, it would be difficult to modify. Before such a proclamation could be issued, it would of course be necessary for the Legislative Council to pass a resolution in terms of Article 2 of the Order in Council of 1903. Your Directors will no doubt give full consideration to the method of procedure suggested by the High Commissioner.

I am to take this opportunity of observing that it has not as yet been explained why the Administrator, in circulating the draft clause (8) of the Order in Council to the Elected Members, omitted the last sentence of that clause, providing for communication with the High Commissioner in every case where the Administrator exercised the power proposed to be vested in him by the second sentence of the clause.

I am, &c.,  
H. W. JUST.

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No. 3.

THE BRITISH SOUTH AFRICA COMPANY to COLONIAL OFFICE.

(Received 7 January, 1911.)

2, London Wall Buildings, London, E.C.,  
6th January, 1911.

SIR,

I AM directed to refer to your letter of 20th ultimo,\* upon the subject of the proposed new Order in Council for Southern Rhodesia, and to transmit, for the favourable consideration of the Secretary of State, a further draft embodying the proposals which the Directors desire to make after consultation with Sir Robert Finlay.

2. It may be convenient to state at the outset that the omission referred to in the last paragraph of your letter\* under reply was made with the desire of obviating the difficulties pointed out by the Secretary of State in your letter of 6th August, 1909,† and it was assumed that the action of the Company in withdrawing the additions to Clause 8 would be approved.

3. With regard to the suggestion of the High Commissioner that, failing an early agreement, a solution might be found in the issue of a proclamation, I am to state that this method of procedure does not commend itself to the Board. It is considered that the policy of effecting a constitutional change of the magnitude proposed by means of a proclamation would be contrary to precedent and open to objection. The Board further dissents from the view which is apparently held that if experience should prove that too wide powers had been conferred by proclamation it would be easy to introduce limitations by subsequent modification. Any such action would, in the opinion of the Board, give rise to the agitation and ill-feeling which it is the chief desire of the Directors to avoid. On the other hand, it is believed that the promulgation of an appropriate Order in Council would finally dispose of the questions at issue.

4. The proclamation suggested by Lord Gladstone would give to the Elected Members a majority in the Legislative Council for all purposes without reservation. To the issue of such a proclamation the Company cannot agree. In the view of the Directors it is essential that the Company should remain free to fulfil the primary obligations as to good government imposed upon it by its Charter. They consider that this position would be imperilled if the Legislative Council, which has no executive authority or duties, were able to prevent the Company from discharging its administrative obligations.

5. With regard to the enclosed new draft Order in Council I am to point out that the first five paragraphs are identical with the paragraphs similarly numbered

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\* No. 2.

† Not printed.

in the previous print. Section 6 and Section 7 (which was in the earlier proof) are taken from Ordinance No. 2 of 1899, providing Rules of Order for the Legislative Council, and are introduced to give permanency to these provisions.

Section 9, which is the substitute now proposed for Section 8 in the previous draft, is dealt with in the following paragraphs of this letter.

6. The Board, having reconsidered the whole question, with the hope of finding a solution to meet as far as possible the views of the Elected Members of the Legislative Council, does not press the view expressed in the last sentence of paragraph 5 of my letter of 13th August, 1909.\* The Company will not ask for the power of carrying an affirmative vote in the face of an adverse majority of the Council.

7. So far as administrative revenue is concerned, the Board would not apprehend any danger under the proposed Order. A considerable revenue is already assured by the operation of Ordinances of a permanent character, such as the Customs, Hut Tax and Stamps, and Licences Ordinances. It cannot, however, be disguised that the changes proposed might result in the establishment of an inelastic fiscal system.

8. In regard to administrative expenditure the situation is more difficult, and it is here, that the possibility of danger is apprehended. There might be refusals on the part of the Legislative Council to vote adequate or appropriate supplies for the public service, and in either event, unless the Administrator were able to expend, at his discretion, such sums as might be required for the conduct of the administration, the only suggested solution of the difficulty would lie in the constant direct intervention of the High Commissioner. This is the solution which the Elected Members appear to contemplate, but the Directors cannot accept because they consider it to be unworkable.

9. The finances of the Company are protected because the Legislative Council cannot compel the Administration to spend money, and under Clause 40 of the Southern Rhodesia Order in Council it is not competent for the Elected Members to introduce legislation that would change this position. The Board, however, feels strongly that a more general view must be taken of the question than would be required were the finances of the Company the sole consideration, and it cannot acquiesce in the establishment of a state of affairs which would allow the government of Rhodesia to be thrown, even temporarily, into chaos.

10. The danger to be guarded against is that the Executive might be paralysed and rendered incapable of carrying out its administrative duties by action of the Legislative Council, to which, under the constitution of Southern Rhodesia, it is not responsible. Clause 9 of the proposed Order is designed to meet the difficulty. It will be seen that it gives to the Administrator the power by executive act of carrying on the administration in certain circumstances under carefully regulated conditions, which ensure that the powers thus entrusted to him shall only be resorted to in exceptional cases.

11. In conclusion, I am to say that, in the view of the Board, the proposals now made fulfil, both in letter and in spirit, the pledges given by the Visiting Commission in the Declaration of Policy made at Bulawayo on the 21st October, 1907, and they hope that the acceptance of these proposals by the Secretary of State will make it unnecessary to refer in greater detail to the correspondence between the Administrator of Southern Rhodesia and the Elected Members of the Legislative Council. The Directors have gone further in the direction of concession than, in their view, is necessary to carry out the promises of the Company according to the widest construction which can fairly be placed upon the Declaration apart from the intention which its words were designed to embody. They do so in the hope that the Elected Members will respond to the confidence reposed in them.

12. The Directors respectfully trust that with these explanations the Secretary of State will give his most favourable consideration to the proposals of the Company, which are made with the fullest sense of responsibility, and with the desire to concede as wide a measure of popular control as present circumstances appear to them to require and warrant.

I am, &c.,

D. E. BRODIE,

Secretary.

\* Not printed.

Enclosure in No. 3.

SOUTHERN RHODESIA.

THE SOUTHERN RHODESIA ORDER IN COUNCIL, 1911.

AT THE COURT AT

The                      day of                      1911.

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY.

WHEREAS it is expedient to amend the provisions of the Southern Rhodesia Order in Council 1898 (hereinafter referred to as "the Order of 1898"), and the provisions of the Southern Rhodesia Order in Council 1903 (hereinafter referred to as "the Order of 1903") :

And whereas it is expedient to revoke the Southern Rhodesia Order in Council 1904, and to substitute provisions for ensuring to the Company the control of financial matters while preserving to members of the Legislative Council full liberty of discussion and debate :

NOW THEREFORE His Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, is pleased by and with the advice of His Privy Council, to order and it is hereby ordered as follows :—

1. This Order may be cited as the Southern Rhodesia Order in Council 1911.

2. The number of members of the Executive Council for Southern Rhodesia appointed by the Company shall be three instead of four; and the word "three" shall accordingly be substituted for the word "four" in paragraph (1) of Article 13 of the Order of 1898.

In paragraph (3) of Article 14 of the Order of 1898 the word "two" shall be substituted for the word "three."

3. In the paragraph of Article 2 of the Order of 1903 which is marked 17 (1) the word "twelve" is hereby substituted for the word "fourteen"; and the word "five" is hereby substituted for the word "seven," where that word first occurs in the said paragraph.

4. In the paragraph in Article 2 of the Order of 1903 which is marked 17 (3), the following words are hereby revoked and shall be deleted, that is to say, the words "The elected members shall rank among themselves in order of the date of their election; and two or more members elected on the same day shall rank in the alphabetical order of their names."

5. The paragraphs of Article 2 of the Order of 1903 which are respectively numbered 40 and 41 are hereby revoked; and the Southern Rhodesia Order in Council, 1904, is hereby also revoked without prejudice to anything already done or suffered under the same respectively.

6. The Administrator or member presiding may from time to time appoint one of the members of the Council to be Chairman of Committees for the Session then current, and in the event of the absence of such Chairman by reason of illness or any other cause, he may nominate a member of Council to act as Chairman for the day.

7. Ordinances interfering with the land and other rights of the Company shall not be proceeded with except with the consent of the Administrator.

8. The Administrator shall submit to the Legislative Council in each year such an estimate as he may think necessary of the whole expenditure not already fixed which is intended to be incurred for services within Southern Rhodesia, together with an estimate of the revenue of Southern Rhodesia, for the financial year then next ensuing; and shall transmit to the High Commissioner and to the Company at the earliest opportunity an Ordinance providing for the service of that year, provided that emoluments of the Administrator, members of the Executive Council and of such nominated members of the Legislative Council as are not members of the Executive Council, Judges of the High Court, Magistrates, Native Commissioners and Assistant Native Commissioners shall be deemed to be reserved, and shall not be subjected to the vote of the Legislative Council.

9. Should the Legislative Council in any year fail to pass an Ordinance providing for the service of the year, or pass such Ordinance in a form which, in the opinion of the Administrator provides insufficiently or unsuitably for the due

Short title.  
Amendment  
of Articles 13  
and 14 of  
Order of 1898.

Amendment  
of paragraph  
17 (1) of  
Order of 1903.

Amendment  
of paragraph  
17 (3) of  
Order of 1903.

Revocation of  
paragraphs 40  
and 41 of  
Order of 1903  
and of Order  
of 1904.

Appointment  
of Chairman  
of Com-  
mittees.

Saving for  
land and  
other rights  
of Company.  
Submission  
by Adminis-  
trator of  
annual  
estimates.

Appropriation, &c.

administration and good government of Southern Rhodesia, then nothing contained in this Order or the Order of 1898 or the Order of 1903 shall prevent the Administrator with the sanction of the Company from expending for the due administration and good government of Southern Rhodesia such moneys of the Company received as public revenue as he may in his discretion consider essential. He shall forthwith report his action in writing to the High Commissioner, and a copy of his report shall be laid before the Legislative Council at its next Session after the expenditure has been incurred.

10. This Order shall be published in the "Gazette," and commence and come into operation on a day to be fixed by the High Commissioner, and the High Commissioner shall give directions for the publication of this Order, at such place and in such manner and for such time or times as he thinks proper for giving due publicity thereto.

Publication and commencement of Order.

11. His Majesty may from time to time revoke, alter and add to or amend this Order.

Power to revoke Order.

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No. 4.

COLONIAL OFFICE to BRITISH SOUTH AFRICA COMPANY.

SIR,

Downing Street, 9th February, 1911.

I AM directed by Mr. Secretary Harcourt to inform you that he has had under his consideration your letter of the 6th of January,\* forwarding an amended draft Order in Council to make further provision for the constitution of Southern Rhodesia.

2. With reference to paragraph 2 of this letter, I am to observe that Mr. Harcourt does not clearly understand why the whole of the draft Order in Council submitted for the consideration of his predecessor was not circulated by the Administrator of Southern Rhodesia for the views of the Elected Members of the Council. I am further to observe that while Mr. Harcourt's predecessor had pointed out that the addition to Clause 8 of the former draft required careful consideration, he had not negatived its communication to the Elected Members as a suggestion which had commended itself to the Administrator.

3. The draft Order in Council now submitted differs from the previous draft in two respects: (a) it includes as Clause 6 Section 5 of Ordinance 2 of 1899; and (b) it replaces Clause 8 of the former draft by a Clause (9) which in the event of the Council failing to pass an Appropriation Ordinance or passing an Ordinance which in the opinion of the Administrator provides insufficiently or unsuitably for the public service, would empower the Administrator to expend public revenue as in his discretion he may consider necessary, subject to the sanction of the Company and to a report to the High Commissioner which is to be published at the next Session of the Council.

4. The new Clause 6 appears to be a matter of minor importance. The terms of the draft Order in Council as now submitted, and particularly the insertion of the new Clause 9, are supported by your Directors on the ground that they are a fulfilment in letter and spirit of the undertaking given by the Visiting Directors in 1907 and that they are in themselves reasonable, having regard to the fact that the Company is, and will be, responsible for good government in Southern Rhodesia.

5. This responsibility was, however, on the Company in 1907, and Mr. Harcourt apprehends that the Visiting Directors must be held when making their statement of policy to have appreciated it and to have been prepared for any difficulties which might arise in regard to it from the constitutional changes which they forecasted. Further, your Directors must be held to have taken the same view when they approved the policy stated by the Visiting Directors in the Board minute of the 4th of December, 1907 (see enclosure to letter to the Colonial Office, December 23rd, 1907).†

6. The question therefore which has to be considered is whether the draft Order in Council now submitted does or does not carry out the pledge of the Visiting Directors confirmed by your Board. That pledge, so far as it affects the present issue, was in the following terms:—

"In order to bridge over the intervening period (*i.e.*, the period up to the grant of self government) application will be made for an Order of His

\* No. 3.

† Not printed.

Majesty in Council reducing the Nominated Members of the Legislative Council to five, but, until the grant of responsible government, protecting the position of the Company in fiscal matters, as now procured by the existing rules of the Legislative Council and Clause 40 of the Southern Rhodesia Order in Council, 1898.”

7. Mr. Harcourt apprehends the plain meaning of the terms of this pledge to be that the protection of the position of the Company in fiscal matters is to be secured by enacting in the new Order in Council (a) such part of the existing rules of the Legislative Council as bear upon the question of the Company's position in fiscal matters, and (b) Clause 40 of the Order in Council, 1898. The draft Order in Council now submitted embodies in Clauses 6 and 7 Section 5 of Ordinance 5 of 1899 and Rule 48 of the Rules scheduled to that Ordinance. So far it is in accordance with the pledge, but it does not include a provision on the lines of Clause 40 of the Order in Council of 1898 and Rule 36 of the Rules scheduled to Ordinance 5 of 1899, but substitutes for it a clause for which there is no authority either in the Order in Council or the Rules, and which would, in effect, enable the Administrator to overrule the views of the Elected Members at his discretion.

8. The new clause cannot, accordingly, be expected to be accepted as a fulfilment of the pledge of the Visiting Directors, and Mr. Harcourt, after consulting the High Commissioner for South Africa, has no sufficient grounds for supposing that it is more likely to be accepted by the Elected Members as a settlement than was the clause which it replaces. That clause, at all events, included Clause 40 of 1898, and though it was unacceptable on other grounds, was so far more closely in accord with the pledge of the Visiting Directors than is the new clause.

9. Mr. Harcourt is accordingly unable to submit the draft Order in Council to His Majesty in Council in its present form without an opportunity being afforded to the Elected Members to express their opinion with regard to its terms. It seems to him that if the pledge of the Visiting Directors is to be fulfilled and the concurrence of the Elected Members to be secured, it should be amended by the excision of Clause 9 and by the insertion of a clause on the lines of Clause 40 of the Order in Council of 1898 and Rule 36 of the Rules of the Legislative Council.

10. If this is done the Company will still retain important safeguards in respect that its land and other rights cannot be interfered with by Ordinance without the consent of the Administrator, that the initiative in respect both of the levying and appropriation of the public revenues will rest with the Administrator, and that the power to dissolve the Council will also remain to the Administrator. Further, the concurrent power of legislation possessed by the High Commissioner will remain in full force, as will the power of the Secretary of State to disallow any Ordinance of the Council.

11. Mr. Harcourt also thinks it proper to point out that the position which would exist under an Order in Council carrying out the pledges of the Visiting Directors has, as a matter of fact, existed in practice for two years already, and no evil consequences have resulted so far as he is aware. The fact that any serious difference of opinion between the Elected Members and the Company must inevitably bring to the front the question of the entrance of Southern Rhodesia into the Union should in practice be a moderating influence of great value.

12. In view of the dissatisfaction which has already found public expression at the delay in issuing the new Order in Council, Mr. Harcourt is constrained to press on your Directors the urgency of considering the above points and dealing effectively with the matter at the earliest possible moment.

I am, &c.,  
H. W. JUST.

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No. 5.

BRITISH SOUTH AFRICA COMPANY to COLONIAL OFFICE.

(Received 24 February, 1911.)

SIR, 2, London Wall Buildings, London, E.C., 22nd February, 1911.

I AM directed to acknowledge the receipt of your letter of the 9th instant,\* on the subject of the proposed Order in Council to make further provision for the constitution of Southern Rhodesia.

2. It may be convenient to state at the outset that, through an error in printing, which the Directors exceedingly regret, Clause 40 of the Southern Rhodesia Order in Council was accidentally omitted from the draft that accompanied my letter of the 6th ultimo.\* The terms of that clause were embodied in their entirety at the commencement of Clause 8 of the draft referred to in paragraph 3 of your letter under reply, and in making new proposals in substitution for the above Clause 8 it was intended that Clause 40 should be retained. Paragraphs 6, 7, and 8 of my letter of the 6th ultimo were framed on the footing that Clause 40 remained. I now enclose amended prints† of the draft Order in substitution for those previously supplied in which Clause 40 has been printed as a separate Clause (Clause 8). The new proposals of the Company (previously Clause 9) are now set out in Clause 10 of the draft.

3. In reference to paragraph 2 of your letter, I am to repeat that the Directors acted, as has already been stated, in the belief that they were meeting the views of the Secretary of State and with the desire to avoid delay.

4. With reference to the general criticism of the Secretary of State upon Clause 9—now 10—I am in the first place to point out that the Administrator would not be empowered to expend public revenue as in his discretion he might consider necessary—as suggested in paragraph 3 of your letter—but his authority would be restricted in clearly defined contingencies to such expenditure as might be necessary for due administration and good government in fulfilment of the obligations of the Company under the Royal Charter.

5. My Directors readily admit that, as stated in paragraphs 4 and 5 of your letter, the responsibility of the Company for the good government of Southern Rhodesia was present to the minds of the Visiting Commission when they made their Statement of Policy at Bulawayo in 1907, and that the responsibility was also fully recognised by the Board when the action of the Commission was subsequently approved. The Directors find in these facts the strongest confirmation of their present attitude because in their view it should not readily be assumed that they intended to place it out of the power of the Company to fulfil its obligations. It is precisely because of this responsibility that the Company insisted, and must still insist, upon protection in fiscal matters.

6. My Directors regret that they do not agree with the construction put upon the Declaration of Policy by paragraph 7 of your letter. The words “as now procured” were taken and are regarded by the Board as indicating the measure of protection which the Company would require in fiscal matters when for the first time the Elected Members constituted a majority of the Legislative Council.

7. So long as the Nominated Members are a majority in the Legislative Council the position of the Company in fiscal matters is secured, and there can be no fear of any failure to pass an adequate Appropriation Ordinance. If the Nominated Members in the Council are placed in a minority, it is necessary to secure the Administration against the dangers fully dealt with in paragraphs 7 and 8 of my letter of the 6th ultimo. In the view of my Directors, the Company is not sufficiently protected in fiscal matters while this risk remains.

8. My Directors fear that the Secretary of State has not appreciated the serious condition that would arise were the Executive unable to make proper provision for the public service, and I am respectfully to submit that a provision in the proposed Order in Council upon this point is an administrative matter with which the Elected Members, who have legislative functions only without executive responsibilities, are not concerned, and is within the terms of the Declaration of Policy. The references to Clause 40 of the 1898 Order in Council and to the rules of the Legislative Council were intended to illustrate the character of the protection to be procured by the new Order in Council to be applied for, and it would be unreasonable for the Company to omit to put into the new Order adequate words to meet a recognised difficulty.

9. With special reference to paragraphs 8 and 9 of your letter, I am to remind you that the Directors have never given any pledge to the Elected Members of the Legislative Council that their concurrence with the terms of the Order proposed to be applied for by the Company should be sought; and, further, that the Directors have on the contrary, in my letter of the 13th August, 1909,‡ expressed

\* No. 3.

† Not reprinted.

‡ Not printed.

the view that the concurrence of the Elected Members could not be expected. On the other hand, the Directors believe that an Order which is in itself fair and equitable, and contains only such provisions as are necessary and proper for securing good government, will, when once issued, be accepted by the people of Southern Rhodesia.

10. In reference to paragraph 10 of your letter under reply I am to point out that a dissolution of the Legislative Council does not appear to be an adequate safeguard, because under the constitution of Southern Rhodesia dissolution does not affect the Executive Council, which is a body wholly independent of the Legislative Council, and to state that for the reasons given in this letter, and in my letter of the 6th ultimo, the Directors consider it to be essential that the executive powers of the Company should be sufficient in all circumstances to allow it to meet its obligations and fulfil responsibilities without the intervention of the Imperial authorities.

11. My Directors conclude from paragraph 11 of your letter that the Secretary of State is under a misapprehension with reference to the position which has existed during the last two years, for it has always been open to the Company to nominate additional members for the Legislative Council and thus restore its majority.

12. My Directors have considered it to be their duty to ask for the approval of the Secretary of State to an Order in Council which in their opinion fulfils the pledges made by the Visiting Commission and enables the Company to discharge adequately the obligations imposed upon it by the Royal Charter. They have also attempted to state respectfully their objections to the procedure suggested in your letter, and to point out how in their opinion these suggestions fail to meet the conditions of Southern Rhodesia.

13. The Board recognises that the final word upon the question at issue rests with His Majesty's Government, with whom is the responsibility of submitting to His Majesty in Council any Order in Council deemed necessary in the interests of this portion of His Majesty's dominions, but the Directors are confident that the Secretary of State will, in tendering advice to His Majesty in Council, have due regard to the responsibilities—financial and otherwise—imposed upon this Company by the terms of the Royal Charter.

I am, &c.,  
D. E. BRODIE,  
Secretary.

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No. 6.

COLONIAL OFFICE to BRITISH SOUTH AFRICA COMPANY.

SIR,

Downing Street, 8 March, 1911.

I AM directed by Mr. Secretary Harcourt to acknowledge the receipt of your letter of the 22nd ultimo\* relative to the proposed Order in Council to make further provision for the constitution of Southern Rhodesia.

2. Mr. Harcourt is of the opinion that the Order in Council as now submitted does not carry out the pledge given by your Visiting Directors in 1907 and confirmed by the Board, and cannot be expected to be regarded as doing so by the representatives of Southern Rhodesia. In the circumstances, he regrets that he is unable to submit the draft Order to His Majesty in Council. It is for your Directors to consider whether they will take the people of Southern Rhodesia into their confidence in the matter either before or after the elections for the Legislative Council, which it is understood will probably take place in April.

3. Mr. Harcourt is prepared to agree that action in the matter may be suspended pending the meeting of the new Legislative Council in May on the understanding that the position assumed by your Directors should then be fully explained in the Council and an endeavour made to obtain the concurrence of the Elected Members in the Order in Council as a whole. It appears to Mr. Harcourt that, if an agreement cannot be reached at an early date, it may become necessary to publish the whole of the correspondence.

I am, &c.,  
H. W. JUST.



## THE BRITISH SOUTH AFRICA COMPANY to COLONIAL OFFICE.

(Received 5 April, 1911.)

SIR,

2, London Wall Buildings, E.C., London, 4th April, 1911.

I AM directed to acknowledge receipt of your letter of the 8th March\* relative to the proposed Order in Council to make further provision for the Constitution of Southern Rhodesia.

2. My Directors note with regret that Mr. Secretary Harcourt is of opinion that the draft Order forwarded in my letter of the 22nd February† does not give effect to his interpretation of the pledge given at Bulawayo in 1907, and that he is unable to submit it to His Majesty in Council.

3. They desire to place on record that throughout the discussions at Bulawayo it was distinctly stated by the Visiting Commission that the change in the constitution of the Legislative Council which they would recommend must be on the condition that control of finance was to be retained by the Company. I am to state that the Visiting Commission did not intend by their Declaration of Policy to go beyond the position laid down in paragraphs 6 and 7 of my letter of the 22nd February,† and that upon this construction of the Declaration it was confirmed by the Board.

4. The letters from this Company of 6th January last‡ (paragraphs 7 and 8) and of the 22nd February† (paragraphs 7 and 8) placed before Mr. Harcourt the difficulties which might arise in the administration of Southern Rhodesia, in the absence of the safeguards provided by Clause 10 of the draft Order in Council. My Directors regret that the arguments advanced by them do not appear to have weighed with the Secretary of State.

5. The Board fully recognises the new position created by the refusal of the Secretary of State to submit the draft Order in Council.

6. For the reasons stated in paragraph 9 of my letter of the 22nd February,† my Directors do not consider that any practical result will be secured by further endeavour to obtain the concurrence of the Elected Members in the Order in Council as a whole. They do not, therefore, propose to ask for the consent of the Secretary of State to the adoption of the course suggested in paragraph 3 of your letter\* under reply.

7. As the Secretary of State cannot submit the draft Order in Council, which, in the opinion of the Board, effectively reserves the control of finance to the Company, my Directors are left with two alternatives, either to withdraw the application for a new Order on the ground that they find it impracticable to give effect to the intentions of the Visiting Commission in a form acceptable to the Secretary of State, or to propose an Order which, in their judgement, does not provide for the fulfilment in all circumstances of the obligations for the good government of the country imposed upon the Company by the Royal Charter.

8. Having regard to the views of the Secretary of State, and with the desire to bring about an immediate settlement, my Directors have decided to adopt the second alternative. They accordingly respectfully request the Secretary of State to recommend to His Majesty in Council the accompanying draft Order§ marked "A," which complies with the requirements indicated in your letter of the 9th February last.|| In this draft, Clause 10 of the draft accompanying my letter of the 22nd February last† is not included, and Rule 36 of the Rules scheduled to Ordinance No. 5 of 1899 has been incorporated as suggested in your letter of the 9th February last.|| The Board takes this course in the hope that the constitutional difficulties against which no provision is made in the draft Order in Council now submitted will not arise, owing to the good sense and feeling of the Elected Members of the Legislative Council.

9. The above draft Order marked "A" is identical with the draft submitted with my letter of 22nd February† save for the omission of Clause 10 and the insertion of Rule 36. As, however, the form of the draft can now be considerably simplified and improved, consequent upon the omission of Clause 10, I am also to transmit for consideration an alternative draft marked "B,"§ which the Directors are advised has precisely the same legal meaning and effect as the draft marked "A."

10. In order that the Administrator may be fully advised before the meeting of the Legislative Council early in May, I am to ask respectfully for as early an

\* No. 6.

† No. 5.

‡ No. 3.

|| No. 4.

§ Not printed.

intimation as possible when the draft Order will be submitted to His Majesty in Council.

I am, &c.,  
D. E. BRODIE,  
Secretary.

No. 8.

COLONIAL OFFICE to THE BRITISH SOUTH AFRICA COMPANY.

SIR,

Downing Street, 15 April, 1911.

I AM directed by Mr. Secretary Harcourt to acknowledge the receipt of your letter of the 4th of April,\* and to state that, after consulting the High Commissioner for South Africa, he is prepared to approve the draft Order in Council for Southern Rhodesia enclosed in your letter and marked "B." This Order will be submitted to His Majesty in Council for enactment on the first opportunity.

Mr. Harcourt's views on the general question of this Order in Council in relation to the pledge given by the Visiting Directors and approved by your Board have been so fully stated in the previous correspondence that he does not propose to comment at length on your letter under acknowledgment. He is, however, constrained to observe that your Directors have in fact had before them the alternatives of submitting an Order in Council which could be admitted by the elected representatives of the people of Southern Rhodesia to be a fulfilment of the pledge of the Visiting Directors, or of stating that they could not do so and of taking those representatives into consultation with a view to a settlement by consent. As your Directors have not accepted the second alternative, the responsibility for the action necessary to carry out the first alternative must rest on them and not on the Secretary of State.

I am, &c.,  
H. BERTRAM COX.

No. 9.

THE BRITISH SOUTH AFRICA COMPANY to COLONIAL OFFICE.

(Received 18 March, 1914.)

SIR,

2, London Wall Buildings, London, E.C., 17th March, 1914.

I AM desired by Sir Starr Jameson to refer to Mr. Harcourt's statements in the House of Commons last night when replying to Mr. MacNeill and afterwards to Sir Gilbert Parker.

2. Mr. Harcourt, in referring to the Order in Council of 1898, said that the provisions dealing with the natives had been "consistently and continually enforced by the High Commissioner," which would lead to the inference that there had been some neglect by this Company of its duties in this respect. We are not aware of any suggestion to this effect ever having been made to the Company.

3. The letter from which Sir Starr Jameson quoted in his speech at Salisbury on the 22nd December last was not directed to "the enlargement of the number of Elected Members and a restriction of the number of the nominated Members in the Legislative Council in Southern Rhodesia." Upon these points there has been no controversy.

4. The Declaration of Policy issued in Bulawayo by the visiting Directors on the 21st October, 1907, provided that the number of nominated Members should be reduced from seven to five and that the number of Elected Members should remain seven. This was confirmed by the Board on the 4th December of the same year, and the first draft of the Order in Council, sent to the Colonial Office on the 19th February, 1909, contained the provision as to numbers, and such provision has never been under discussion.

5. There was subsequently much correspondence respecting the mode in which financial control should be retained by the Company on the Elected Members being in a majority on the Council, and it was in closing a letter dealing with this question, dated 7th February, 1911, that Mr. Harcourt inserted the paragraph which was quoted by Sir Starr Jameson. The paragraph is complete in itself and is not governed by the context, and the insinuation that Sir Starr wrongly used it is not justified.

\* No. 7.

6. Sir Starr Jameson is sure that now that Mr. Harcourt has had his attention called to these inaccuracies he will readily put the matter right with the House of Commons.

I am, &c.,  
D. E. BRODIE,  
Secretary.

No. 10.

COLONIAL OFFICE to THE BRITISH SOUTH AFRICA COMPANY.

SIR, Downing Street, 21 March, 1914.  
I AM directed by Mr. Secretary Harcourt to acknowledge the receipt of your letter of the 17th instant,\* in which, by Sir Starr Jameson's direction, you draw attention to certain remarks made by Mr. Harcourt in the House of Commons on the previous evening.

2. With regard to the second paragraph of your letter, I am to state that Mr. Harcourt did not intend that the inference suggested by you should be drawn from his words, nor does he consider that it could reasonably be so drawn.

3. With regard to the Colonial Office letter of the 9th of February, 1911,† from which Sir Starr Jameson quoted in his speech at Salisbury on the 22nd of December last, Mr. Harcourt regrets that, in speaking partly from memory, the statement which he made was not strictly accurate. The increase in the number of elected members had, it is true, been accepted by the Company before 1911; but they had proposed to accompany that increase by restrictions on the financial powers of the Council which would, in Mr. Harcourt's opinion, have rendered the increased unofficial representation valueless, and it was against these restrictions that the letter of the 9th of February, 1911,‡ was directed.

4. Mr. Harcourt is quite ready to publish the whole correspondence with his explanation, if Sir Starr Jameson wishes it.

I am, &c.,  
JOHN ANDERSON.

No. 11.

THE BRITISH SOUTH AFRICA COMPANY to COLONIAL OFFICE.

(Received 27 March, 1914.)

2, London Wall Buildings,  
London, E.C., 26th March, 1914.

SIR, I AM directed by Sir Starr Jameson to acknowledge the receipt of your letter of the 21st instant‡ with regard to certain remarks made by Mr. Harcourt in the House of Commons on the evening of the 16th instant, and to say that Sir Starr is glad to learn that Mr. Harcourt did not intend his reference to the "consistent and continuous enforcement by the High Commissioner" of his powers in regard to the natives to convey the inference that the Company had been prone to be neglectful of its duties in this respect. He, however, still thinks that this inference might not unnaturally be drawn from Mr. Harcourt's words by persons unacquainted with the facts.

2. Sir Starr readily accepts Mr. Harcourt's expression of regret for the unintentional inaccuracy referred to in the third paragraph of your letter. He, however, wishes to point out, in reference to the latter half of this paragraph, that the words "the increase in the number of elected members had, it is true, been *accepted* by the Company before 1911" still convey the suggestion that this proposal was made by the Colonial Office to the Company, and not by the Company to the Colonial Office, as was actually the case. On each occasion when steps have been taken to carry out the declared policy of the Company gradually to strengthen as circumstances allow popular control over legislation in Southern Rhodesia, the initiative has been taken by the Company in recommending these steps to the Colonial Office. Misgivings were expressed by the Colonial Office in regard to the possible consequences of such action, in relation to financial control, in a letter of the 3rd December, 1902, the relevant portion of which is as follows:—

"So long as the responsibility for the finances of Southern Rhodesia rests with the British South Africa Company, it is essential that there should

\* No. 9.

† No. 4.

‡ No. 10.

be no risk of the official members of the Legislative Council being outvoted by the unofficial members, and I am to enquire how it is proposed to secure this, looking to the very small number of officials of high standing which is available."

3. It will be seen from this that the attitude of the Company, in manifesting some anxiety, in connection with the preparation of the draft of the 1911 Order in Council, to safeguard its powers and fulfil the administrative duties imposed upon it by the Charter, was consistent with that adopted by the Secretary of State in 1902. The smooth working of the Southern Rhodesia Administration with a majority of elected members in the Legislative Council has, it is true, not justified any fears on this score that may have been at one time entertained, but the fact remains that the Colonial Office had drawn particular attention to the necessity of safeguarding the Company in the matter of finance, and that the Company, in wishing to insert in the 1911 Order the provision to which Mr. Harcourt took exception, were acting in accordance with views previously expressed to them by one of Mr. Harcourt's predecessors.

4. In conclusion, I am to say that Sir Starr Jameson considers that the most satisfactory course will be that the whole correspondence, including the letters which have now been exchanged between Mr. Harcourt and himself, should be laid before Parliament, and he hopes that this may be done as soon as possible.

I am, &c.,  
D. E. BRODIE,  
Secretary.

## No. 12.

## COLONIAL OFFICE to THE BRITISH SOUTH AFRICA COMPANY.

SIR,

Downing Street, 1 April, 1914.

I AM directed by Mr. Secretary Harcourt to acknowledge the receipt of your letter of the 26th ultimo,\* and to request you to inform Sir Starr Jameson that the correspondence which has been under discussion, together with the letters which have now been exchanged, will be laid before Parliament at an early date.

In making this intimation, I am to add that, if Sir Starr Jameson desires to give any explanation of his action in having made public use of an isolated paragraph of an unpublished letter without having sought Mr. Harcourt's concurrence, Mr. Harcourt will be glad to include it in the Blue Book.

I am, &c.,  
JOHN ANDERSON.

## No. 13.

## THE BRITISH SOUTH AFRICA COMPANY to COLONIAL OFFICE.

(Received 3rd April, 1914.)

SIR,

2, London Wall Buildings, London, E.C., 2nd April, 1914.

I AM directed to acknowledge the receipt of your letter of the 1st instant,† and to say that Sir Starr Jameson is glad to note that the correspondence will be laid before Parliament at an early date.

It has already been pointed out in the fifth paragraph of my letter of the 17th March,‡ that the paragraph of the letter of the 9th February, 1911,§ quoted by Sir Starr Jameson in his speech at Salisbury, is complete in itself and is not governed by the context. There was nothing misleading in Sir Starr Jameson's quotation, and it does not seem to him that any explanation is called for. He is willing that the published correspondence should speak for itself.

I am, &c.,  
D. E. BRODIE,  
Secretary.

\* No. 11.

† No. 12.

‡ No. 9.

§ No. 4.

## APPENDIX.\*

## THE SOUTHERN RHODESIA ORDER IN COUNCIL, 1903.

AT THE COURT AT BUCKINGHAM PALACE, THE 16TH DAY OF FEBRUARY, 1903.

*Present :*

THE KING'S MOST EXCELLENT MAJESTY,  
 ARCHBISHOP OF CANTERBURY, MARQUESS OF LONDONDERRY,  
 LORD PRESIDENT, LORD CHAMBERLAIN.

Whereas it is expedient to amend the provisions of the Southern Rhodesia Order in Council, 1898.

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered as follows:—

1. This Order may be cited as the Southern Rhodesia Order in Council, 1903, and shall be read and construed as one with the Southern Rhodesia Order in Council, 1898, hereinafter referred to as the principal Order.

2. Articles 17, 23, 32, 40 and 41 of the principal Order are hereby revoked as and from the commencement of this Order but without prejudice to anything lawfully done thereunder and the following provisions are hereby substituted for each of the said articles respectively:—

17. (A.) (1) There shall be in Southern Rhodesia a legislative body to be styled "The Legislative Council" composed of the Administrator, the Resident Commissioner, and fourteen other members, of whom seven, hereinafter referred to as "nominated members" shall be appointed by the Company, with the approval of a Secretary of State, and seven shall be elected by the registered voters in the manner hereinafter provided. Provided that the proceedings of the Council shall not be invalid on account of any vacancies therein.

(2) Notwithstanding anything contained in the principal order, the High Commissioner may from time to time, with the previous approval of a Secretary of State, by proclamation alter and amend any provision of this Order or of the principal Order relating to the constitution of the Legislative Council if the said Council shall resolve that such alteration and amendment be made, provided that any resolution of the Legislative Council which recommends that the numbers of the nominated and elected members respectively of the said Council shall be unequal shall be passed by a majority of not less than three-fourths of the members of the whole Legislative Council as constituted at the date of any such resolution.

(3) The nominated members of the Legislative Council shall take precedence of the elected members. The Company, with the approval of a Secretary of State, shall determine the precedence of the nominated members amongst themselves. The elected members shall rank among themselves in order of the date of their election, and two or more members elected on the same day shall rank in the alphabetical order of their names.

(B.) Until the expiration of their term of office by effluxion of time unless the Council be sooner dissolved, the existing elected members for Mashonaland shall continue to hold their seats in the Council as representatives of the electoral district containing the District of Salisbury and the existing elected members for Matabeleland shall continue to hold their seats as representatives of the electoral district containing the District of Buluwayo.

23. The Administrator shall preside at the meetings of the Legislative Council, and in his absence such other member of the Council as may be appointed in writing by the Administrator shall preside.

32. (1) Questions arising in the Legislative Council or in any Committee of the Legislative Council shall be decided by a majority of votes of the members present other than the Administrator and the Resident Commissioner.

(2) In the event of an equality of votes on any question arising in the Legislative Council the Administrator shall have a casting vote. Any member appointed by the Administrator to preside in his absence at a meeting of the Council shall have a casting vote when presiding as well as an original vote.

(3) In the event of an equality of votes arising on any question in a Committee of the Legislative Council (a) when the Administrator is present the Chairman of the Council in Committee shall have an original vote only and the Administrator shall have a casting vote; (b) when the Administrator is absent the Chairman of the Council in Committee shall have a casting vote as well as an original vote.

40. No Ordinance, vote, resolution or question the object or effect of which may be to dispose of or charge any part of the Revenues of Southern Rhodesia or to revoke alter or vary any such disposition or charge shall be proposed except by the Administrator acting on the instructions of the Company or by his authority in writing previously obtained.

41. The Administrator shall submit to the Legislative Council in each year such an estimate as he may think necessary of the whole expenditure, not already fixed, which is intended to be incurred for services within Southern Rhodesia, together with an estimate of the revenue of Southern Rhodesia for the financial year then next ensuing, and shall transmit to the High Commissioner and to the Company at the earliest opportunity an Ordinance providing for the service of that year. Provided that emoluments of the Administrator, members of the Executive Council, and of such nominated members of the Legislative Council as are not members of the Executive Council, Judges of the High Court, Magistrates, Native Commissioners, and Assistant Native Commissioners shall be deemed to be reserved, and shall not be subjected to the vote of the Legislative Council.

3. This Order shall be published in the *Gazette* and commence and come into operation on a day to be fixed by the High Commissioner and the High Commissioner shall give directions for the publication of this Order at such place, and in such manner, and for such time or times as he thinks proper for giving due publicity thereto.

4. His Majesty may from time to time revoke, alter, add to, or amend this Order.

*A. W. FitzRoy.*

\* The Southern Rhodesia Order in Council, 1898, is printed as No. 4 in [H.C. 130] 1905.

THE SOUTHERN RHODESIA ORDER IN COUNCIL, 1911.  
AT THE COURT AT BUCKINGHAM PALACE, THE 4TH DAY OF MAY, 1911.

*Present,*

	THE KING'S MOST EXCELLENT MAJESTY
LORD PRESIDENT	LORD HAVERSHAM
EARL CARRINGTON	LORD ASHBY ST. LEDGERS.

Whereas it is expedient to amend the provisions of the Southern Rhodesia Order in Council, 1898 (hereinafter referred to as "the Order of 1898"), and the provisions of the Southern Rhodesia Order in Council, 1903 (hereinafter referred to as "the Order of 1903").

And whereas it is expedient to ensure to the Company the control of financial matters while preserving to members of the Legislative Council full liberty of discussion and debate.

Now, therefore, His Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty invested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Southern Rhodesia Order in Council, 1911.
2. The number of members of the Executive Council for Southern Rhodesia appointed by the Company shall be three instead of four: and the word "three" shall accordingly be substituted for the word "four" in paragraph (1) of Article 13 of the Order of 1898.  
In paragraph (3) of Article 14 of the Order of 1898 the word "two" shall be substituted for the word "three."
3. In the paragraph of Article 2 of the Order of 1903 which is marked 17 (1), the word "twelve" is hereby substituted for the word "fourteen"; and the word "five" is hereby substituted for the word "seven" where that word first occurs in the said paragraph.
4. In the paragraph in Article 2 of the Order of 1903 which is marked 17 (3), the following words are hereby revoked and shall be deleted, that is to say, the words "The elected members shall rank among themselves in order of the date of their election; and two or more members elected on the same day shall rank in the alphabetical order of their names."
5. The Administrator or member presiding may from time to time appoint one of the members of the Council to be Chairman of Committees for the Session then current, and in the event of the absence of such Chairman by reason of illness or any other cause, he may nominate a member of Council to act as Chairman for the day.
6. The Legislative Council shall not consider any vote, resolution or ordinance for the appropriation of any part of the public revenue or for any tax or impost that has not been first recommended to the Council by the Administrator during the same Session.
7. Ordinances interfering with the land and other rights of the Company shall not be proceeded with except with the consent of the Administrator.
8. This Order shall be published in the "Gazette," and commence and come into operation on a day to be fixed by the High Commissioner, and the High Commissioner shall give directions for the publication of this Order, at such place and in such manner and for such time or times as he thinks proper for giving due publicity thereto.
9. His Majesty may from time to time revoke, alter and add to or amend this Order.

*Almeric FitzRoy.*



[REDACTED]



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